

UNITED STATES DISTRICT COURT
10TH DISTRICT OF NEW MEXICO

MICHAEL J. NISSEN
(PLAINTIFF)

DATED:

V.

MOTION FOR LEAVE TO PROCEED
PURSUANT TO 28 U.S.C. § 1915

JUDGE JAMES O' BROWNING
(DEFENDANT)

MOTION FOR LEAVE TO PROCEED PURSUANT
TO 28 U.S.C. § 1915

NOW COMES, MICHAEL J. NISSEN, PLAINTIFF
(HEREIN-AFTER PLAINTIFF), IN THE ABOVE ENTITLED
ACTION, RESPECTFULLY MOVES THE HONORABLE
COURT TO GRANT THIS ACTION OF MOTION
FOR LEAVE TO PROCEED PURSUANT TO
28 U.S.C. § 1915.

PLAINTIFF SEEKS ACTION OF THIS MOTION
TO PROCEED AND PURSUE 42 U.S.C. § 1983
FILED IN THE UNITED STATES DISTRICT
COURT.

WHEREFORE, PLAINTIFF WILL HUMBLY
PRAY THAT THE HONORABLE COURT WILL

1 GRANT THIS REQUEST OF THE
2 PLAINTIFF. MAY GOD BLESS THE UNITED
3 STATES OF AMERICA.

4
5 RESPECTFULLY SUBMITTED,

6 DATED: 02/19/2020

Michael J. Nissen

7 MICHAEL J. NISSEN

8 (PLAINTIFF)



OFFICIAL SEAL

Birdie Jones

NOTARY PUBLIC - State of New Mexico

My Commission Expires 11-22-2023

Birdie Jones

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**CIBOLA COUNTY CORRECTIONAL CENTER
INMATE ACCOUNT SUMMARY 12/31/2018 to 02/18/2020**

Print Date: 02/19/2020 8:51:01AM

INMATE NISSEN, MICHAEL
AGENCY #: 02508151
PERM #: 5552151
HOUSING: 800/B/208/U

| Transaction Date/Time | Transaction Amount | Deposit/Withdrawl Amount | Collected Cost Recovery | Billed Cost Recovery | Check # | Current Balance | Receipt # | DLN |
|-------------------------------------|--------------------|--------------------------|-------------------------|----------------------|-----------------|-----------------|-----------|-----|
| INMATE FUND | | | | | | | | |
| 12/31/18 06:21 | \$100.00 | \$100.00 | | | 98306915701 | \$ 100.00 | 11869503 | |
| WESTERN UNION INTERFACE - AUTO ENTE | | | | | | | | |
| 01/09/19 09:53 | -\$17.95 | -\$17.95 | | | KIMBERLY NISSEN | \$ 82.05 | 11980788 | |
| REGULAR COMMISSARY PURCHASE | | | | | | | | |
| 01/09/19 10:02 | -\$6.43 | -\$6.43 | | | | \$ 75.62 | 11980946 | |
| REGULAR COMMISSARY PURCHASE | | | | | | | | |
| 01/15/19 08:35 | -\$67.93 | -\$67.93 | | | | \$ 7.69 | 12040434 | |
| REGULAR COMMISSARY PURCHASE | | | | | | | | |
| 01/23/19 07:01 | \$100.00 | \$100.00 | | | 86817601301 | \$ 107.69 | 12115274 | |
| WESTERN UNION INTERFACE - AUTO ENTE | | | | | | | | |
| 01/24/19 11:25 | -\$5.55 | -\$5.55 | | | KIMBERLY NISSEN | \$ 102.14 | 12134689 | |
| REGULAR COMMISSARY PURCHASE | | | | | | | | |
| 02/01/19 06:19 | -\$53.31 | -\$53.31 | | | | \$ 48.83 | 12204370 | |
| REGULAR COMMISSARY PURCHASE | | | | | | | | |
| 02/07/19 08:35 | -\$43.42 | -\$43.42 | | | | \$ 5.41 | 12278753 | |
| REGULAR COMMISSARY PURCHASE | | | | | | | | |
| 02/07/19 11:37 | \$43.42 | \$43.42 | | | | \$ 48.83 | 12281925 | |
| VOIDED REGULAR PURCHASE | | | | | | | | |
| 02/07/19 11:37 | \$53.31 | \$53.31 | | | | \$ 102.14 | 12281987 | |
| VOIDED REGULAR PURCHASE | | | | | | | | |
| 02/07/19 11:39 | -\$43.42 | -\$43.42 | | | | \$ 58.72 | 12282005 | |
| REGULAR COMMISSARY PURCHASE | | | | | | | | |
| 02/11/19 07:25 | \$100.00 | \$100.00 | | | 06126438141 | \$ 158.72 | 12308914 | |
| WESTERN UNION INTERFACE - AUTO ENTE | | | | | | | | |
| 02/13/19 09:44 | -\$44.97 | -\$44.97 | | | KIMBERLY NISSEN | \$ 113.75 | 12344847 | |
| REGULAR COMMISSARY PURCHASE | | | | | | | | |
| 02/20/19 08:55 | -\$36.91 | -\$36.91 | | | | \$ 76.84 | 12410533 | |
| REGULAR COMMISSARY PURCHASE | | | | | | | | |
| 02/25/19 07:16 | \$100.00 | \$100.00 | | | 15013464101 | \$ 176.84 | 12449781 | |
| WESTERN UNION INTERFACE - AUTO ENTE | | | | | | | | |
| KIMBERLY NISSEN | | | | | | | | |
| INMATE NAME: NISSEN, MICHAEL | | | | | | | | |
| AGENCY #: 02508151 | | | | | | | | |
| PERM: 5552151 | | | | | | | | |

**CIBOLA COUNTY CORRECTIONAL CENTER
INMATE ACCOUNT SUMMARY 12/31/2018 to 02/18/2020**

Print Date: 02/19/2020 8:51:01AM

INMATE NISSEN, MICHAEL
AGENCY #: 02508151
PERM #: 5552151
HOUSING: 800/B/208/U

| Transaction Date/Time | Transaction Amount | Deposit/Withdrawl Amount | Collected Cost Recovery | Billed Cost Recovery | Check # | Current Balance | Receipt # | DLN |
|-----------------------|-------------------------------------|--------------------------|-------------------------|----------------------|--------------------------------|-----------------|-----------|-----|
| 02/25/19 10:37 | REGULAR COMMISSARY PURCHASE | -\$44.12 | | | | \$ 132.72 | 12558199 | |
| 03/07/19 06:53 | REGULAR COMMISSARY PURCHASE | -\$47.31 | | | | \$ 85.41 | 12568314 | |
| 03/13/19 09:12 | REGULAR COMMISSARY PURCHASE | -\$48.06 | | | | \$ 37.35 | 12638837 | |
| 03/14/19 07:10 | WESTERN UNION INTERFACE - AUTO ENTE | \$100.00 | | | 64765216261 KIMBERLY NISSEN | \$ 137.35 | 12647603 | |
| 03/14/19 10:36 | VOIDED REGULAR PURCHASE | \$2.68 | | | | \$ 140.03 | 12654625 | |
| 03/19/19 07:31 | REGULAR COMMISSARY PURCHASE | -\$43.51 | | | | \$ 96.52 | 12698321 | |
| 03/25/19 08:42 | REGULAR COMMISSARY PURCHASE | -\$27.19 | | | | \$ 69.33 | 12755629 | |
| 03/25/19 14:12 | REGULAR COMMISSARY PURCHASE | -\$6.50 | | | | \$ 62.83 | 12763576 | |
| 03/25/19 14:17 | REGULAR COMMISSARY PURCHASE | -\$20.00 | | | | \$ 42.83 | 12763869 | |
| 03/26/19 08:50 | VOIDED REGULAR PURCHASE | \$2.68 | | | | \$ 45.51 | 12772158 | |
| 04/04/19 08:13 | REGULAR COMMISSARY PURCHASE | -\$32.26 | | | | \$ 13.25 | 12866611 | |
| 04/10/19 15:52 | REGULAR COMMISSARY PURCHASE | -\$11.82 | | | | \$ 1.43 | 12946232 | |
| 04/12/19 08:14 | WESTERN UNION INTERFACE - AUTO ENTE | \$50.00 | | | 34586493831 KIMBERLY NISSEN | \$ 51.43 | 12955289 | |
| 04/16/19 15:10 | REGULAR COMMISSARY PURCHASE | -\$20.32 | | | | \$ 31.11 | 13010457 | |
| 04/29/19 15:30 | REGULAR COMMISSARY PURCHASE | -\$28.51 | | | | \$ 2.60 | 13134897 | |
| 04/30/19 06:23 | WESTERN UNION INTERFACE - AUTO ENTE | \$100.00 | | | 91705532191 KIMBERLY NISSEN | \$ 102.60 | 13136495 | |

INMATE NAME: NISSEN, MICHAEL
AGENCY #: 02508151
PERM: 5552151

**CIBOLA COUNTY CORRECTIONAL CENTER
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Print Date: 02/19/2020 8:51:01AM

INMATE NISSEN, MICHAEL
AGENCY #: 02508151
PERM #: 5552151
HOUSING: 800/B/208/U

| Transaction Date/Time | Transaction Amount | Deposit/Withdrawal Amount | Collected Cost Recovery | Billed Cost Recovery | Check # | Current Balance | Receipt # | DLN |
|-------------------------------------|-------------------------------------|---------------------------|-------------------------|----------------------|-----------------|-----------------|-----------|-----|
| 05/01/19 07:27 | \$100.00 | \$100.00 | | | 23167305991 | \$ 202.60 | 13150286 | |
| WESTERN UNION INTERFACE - AUTO ENTE | | | | | | | | |
| | | | | | PHYLISS HUNTER | | | |
| 05/08/19 10:51 | REGULAR COMMISSARY PURCHASE | -\$19.26 | | | | \$ 183.34 | 13235235 | |
| 05/10/19 11:59 | REGULAR COMMISSARY PURCHASE | -\$2.73 | | | | \$ 180.61 | 13261195 | |
| 05/10/19 12:07 | CR - POSTAGE | -\$4.53 | | | | \$ 176.08 | 13261293 | |
| 05/14/19 15:14 | REGULAR COMMISSARY PURCHASE | -\$7.59 | | | | \$ 168.49 | 13302390 | |
| 05/21/19 08:38 | REGULAR COMMISSARY PURCHASE | -\$23.40 | | | | \$ 145.09 | 13369868 | |
| 05/23/19 11:38 | VOIDED REGULAR PURCHASE | \$2.80 | | | | \$ 147.89 | 13397969 | |
| 05/30/19 11:06 | REGULAR COMMISSARY PURCHASE | -\$52.02 | | | | \$ 95.87 | 13460448 | |
| 06/05/19 08:50 | REGULAR COMMISSARY PURCHASE | -\$31.28 | | | | \$ 64.59 | 13520655 | |
| 06/11/19 08:52 | REGULAR COMMISSARY PURCHASE | -\$22.40 | | | | \$ 42.19 | 13585920 | |
| 06/14/19 16:09 | REGULAR COMMISSARY PURCHASE | -\$2.73 | | | | \$ 39.46 | 13631899 | |
| 06/17/19 15:22 | REGULAR COMMISSARY PURCHASE | -\$34.20 | | | | \$ 5.26 | 13653113 | |
| 06/24/19 07:06 | WESTERN UNION INTERFACE - AUTO ENTE | \$100.00 | | | 53570567201 | \$ 105.26 | 13713500 | |
| | | | | | KIMBERLY NISSEN | | | |
| 06/24/19 07:06 | WESTERN UNION INTERFACE - AUTO ENTE | \$100.00 | | | 80488799161 | \$ 205.26 | 13713605 | |
| | | | | | KIMBERLY NISSEN | | | |
| 06/24/19 08:26 | REGULAR COMMISSARY PURCHASE | -\$28.56 | | | | \$ 176.70 | 13718216 | |
| 07/02/19 09:27 | REGULAR COMMISSARY PURCHASE | -\$31.67 | | | | \$ 145.03 | 13813753 | |

INMATE NAME: NISSEN, MICHAEL
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PERM: 5552151

CIBOLA COUNTY CORRECTIONAL CENTER
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Print Date: 02/19/2020 8:51:01AM

INMATE NISSEN, MICHAEL
 AGENCY #: 02508151
 PERM #: 5552151
 HOUSING: 800/B/208/U

| Transaction Date/Time | Transaction Amount | Deposit/Withdrawal Amount | Collected Cost Recovery | Billed Cost Recovery | Check # | Current Balance | Receipt # | DLN |
|------------------------------|-------------------------------------|---------------------------|-------------------------|----------------------|-----------------|-----------------|-----------|-----|
| 07/08/19 13:43 | CR - COPIES | -\$0.35 | -\$0.35 | | | \$ 144.68 | 13870428 | |
| 07/08/19 13:44 | CR - COPIES | -\$0.85 | -\$0.85 | | | \$ 143.83 | 13870433 | |
| 07/09/19 08:34 | REGULAR COMMISSARY PURCHASE | -\$28.56 | -\$28.56 | | | \$ 115.27 | 13860303 | |
| 07/12/19 11:48 | REGULAR COMMISSARY PURCHASE | -\$2.73 | -\$2.73 | | | \$ 112.54 | 13925864 | |
| 07/15/19 11:52 | REGULAR COMMISSARY PURCHASE | -\$38.04 | -\$38.04 | | | \$ 74.50 | 13945574 | |
| 07/16/19 07:32 | CR - COPIES | -\$0.90 | -\$0.90 | | | \$ 73.60 | 13855921 | |
| 07/22/19 10:14 | REGULAR COMMISSARY PURCHASE | -\$28.17 | -\$28.17 | | | \$ 45.43 | 14018727 | |
| 07/23/19 08:17 | CR - COPIES | -\$0.90 | -\$0.90 | | | \$ 44.53 | 14033674 | |
| 08/01/19 10:06 | REGULAR COMMISSARY PURCHASE | -\$14.27 | -\$14.27 | | | \$ 30.26 | 14136331 | |
| 08/06/19 13:59 | REGULAR COMMISSARY PURCHASE | -\$14.54 | -\$14.54 | | | \$ 15.72 | 14192949 | |
| 08/12/19 07:55 | WESTERN UNION INTERFACE - AUTO ENTE | \$100.00 | \$100.00 | | 36918469561 | \$ 115.72 | 14243026 | |
| 08/12/19 15:52 | REGULAR COMMISSARY PURCHASE | -\$35.96 | -\$35.96 | | KIMBERLY NISSEN | \$ 79.76 | 14258630 | |
| 08/15/19 12:21 | VOIDED REGULAR PURCHASE | \$1.20 | \$1.20 | | | \$ 80.96 | 14285929 | |
| 08/16/19 13:53 | CR - COPIES | -\$3.00 | -\$3.00 | | | \$ 77.96 | 14312093 | |
| 08/19/19 08:17 | CR - COPIES | -\$0.60 | -\$0.60 | | | \$ 77.36 | 14326555 | |
| 08/19/19 12:29 | REGULAR COMMISSARY PURCHASE | -\$30.33 | -\$30.33 | | | \$ 47.03 | 14332750 | |
| INMATE NAME: NISSEN, MICHAEL | | | | | | | | |
| AGENCY #: 02508151 | | | | | | | | |
| PERM: 5552151 | | | | | | | | |

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Print Date: 02/19/2020 8:51:01AM

INMATE NISSEN, MICHAEL
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 HOUSING: 800/B/208/U

| Transaction Date/Time | Transaction Amount | Deposit/Withdrawal Amount | Collected Cost Recovery | Billed Cost Recovery | Check # | Current Balance | Receipt # | DLN |
|-----------------------|-------------------------------------|---------------------------|-------------------------|----------------------|-----------------|-----------------|-----------|-----|
| 08/21/19 14:41 | VOIDED REGULAR PURCHASE | \$1.20 | | \$1.20 | | \$ 48.23 | 14362455 | |
| 08/23/19 06:41 | WESTERN UNION INTERFACE - AUTO ENTE | \$200.00 | | | 89086050171 | \$ 248.23 | 14375444 | |
| 08/28/19 13:19 | REGULAR COMMISSARY PURCHASE | -\$26.50 | | -\$26.50 | KIMBERLY NISSEN | \$ 221.73 | 14432773 | |
| 08/29/19 07:10 | CR - COPIES | -\$1.80 | | -\$1.80 | | \$ 219.93 | 14438632 | |
| 09/03/19 08:45 | REGULAR COMMISSARY PURCHASE | -\$26.50 | | -\$26.50 | | \$ 193.43 | 14476952 | |
| 09/03/19 09:05 | VOIDED REGULAR PURCHASE | \$26.50 | | \$26.50 | | \$ 219.93 | 14477703 | |
| 09/04/19 08:41 | REGULAR COMMISSARY PURCHASE | -\$31.83 | | -\$31.83 | | \$ 188.10 | 14497108 | |
| 09/05/19 07:14 | CR - COPIES | -\$1.90 | | -\$1.90 | | \$ 186.20 | 14509002 | |
| 09/06/19 13:49 | CR - POSTAGE | -\$1.75 | | -\$1.75 | | \$ 184.45 | 14531237 | |
| 09/10/19 08:40 | REGULAR COMMISSARY PURCHASE | -\$25.54 | | -\$25.54 | | \$ 158.91 | 14563270 | |
| 09/10/19 14:27 | CR - POSTAGE | -\$3.50 | | -\$3.50 | | \$ 155.41 | 14570450 | |
| 09/16/19 06:49 | WESTERN UNION INTERFACE - AUTO ENTE | \$100.00 | | \$100.00 | 16995817071 | \$ 255.41 | 14616826 | |
| 09/16/19 08:41 | REGULAR COMMISSARY PURCHASE | -\$29.11 | | -\$29.11 | KIMBERLY NISSEN | \$ 226.30 | 14624014 | |
| 09/20/19 14:39 | REGULAR COMMISSARY PURCHASE | -\$3.97 | | -\$3.97 | | \$ 222.33 | 14686896 | |
| 09/26/19 09:34 | REGULAR COMMISSARY PURCHASE | -\$27.07 | | -\$27.07 | | \$ 195.26 | 14742475 | |
| 10/02/19 09:38 | REGULAR COMMISSARY PURCHASE | -\$27.75 | | -\$27.75 | | \$ 167.51 | 14806608 | |

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| Transaction Date/Time | Transaction Amount | Deposit/Withdrawl Amount | Collected Cost Recovery | Billed Cost Recovery | Check # | Current Balance | Receipt # | DLN |
|-----------------------|-------------------------------------|-----------------------------|-------------------------|----------------------|-----------------|-----------------|-----------|-----|
| 10/14/19 12:23 | REGULAR COMMISSARY PURCHASE | -\$49.15 | -\$49.15 | | | \$ 118.36 | 14935588 | |
| 10/21/19 10:00 | REGULAR COMMISSARY PURCHASE | -\$39.01 | -\$39.01 | | | \$ 79.35 | 15010207 | |
| 10/31/19 06:13 | REGULAR COMMISSARY PURCHASE | \$100.00 | \$100.00 | | 03732240191 | \$ 179.35 | 15124385 | |
| 11/01/19 09:15 | WESTERN UNION INTERFACE - AUTO ENTE | REGULAR COMMISSARY PURCHASE | -\$36.07 | -\$36.07 | KIMBERLY NISSEN | \$ 143.28 | 15138825 | |
| 11/05/19 08:39 | REGULAR COMMISSARY PURCHASE | -\$38.38 | -\$38.38 | | | \$ 104.90 | 15180173 | |
| 11/08/19 12:21 | REGULAR COMMISSARY PURCHASE | -\$3.97 | -\$3.97 | | | \$ 100.93 | 15229490 | |
| 11/14/19 08:38 | REGULAR COMMISSARY PURCHASE | -\$20.03 | -\$20.03 | | | \$ 80.90 | 15289043 | |
| 11/18/19 11:34 | REGULAR COMMISSARY PURCHASE | -\$37.67 | -\$37.67 | | | \$ 43.23 | 15330180 | |
| 11/24/19 08:43 | REGULAR COMMISSARY PURCHASE | -\$34.77 | -\$34.77 | | | \$ 8.46 | 15392654 | |
| 11/29/19 06:19 | REGULAR COMMISSARY PURCHASE | \$100.00 | \$100.00 | | 80536818391 | \$ 108.46 | 15441308 | |
| 12/05/19 09:18 | WESTERN UNION INTERFACE - AUTO ENTE | REGULAR COMMISSARY PURCHASE | -\$28.79 | -\$28.79 | KIMBERLY NISSEN | \$ 79.67 | 15514010 | |
| 12/10/19 08:25 | REGULAR COMMISSARY PURCHASE | -\$27.01 | -\$27.01 | | | \$ 52.66 | 15584806 | |
| 12/10/19 15:37 | REGULAR COMMISSARY PURCHASE | -\$28.21 | -\$28.21 | | | \$ 24.45 | 15573416 | |
| 12/11/19 15:41 | REGULAR COMMISSARY PURCHASE | \$28.21 | \$28.21 | | | \$ 52.66 | 15585517 | |
| 12/17/19 10:06 | VOIDED REGULAR PURCHASE | -\$31.47 | -\$31.47 | | | \$ 21.19 | 15647789 | |
| 12/20/19 10:38 | REGULAR COMMISSARY PURCHASE | -\$2.73 | -\$2.73 | | | \$ 18.46 | 15684599 | |

INMATE NAME: NISSEN, MICHAEL
 AGENCY #: 02508151
 PERM: 5552151

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Print Date: 02/19/2020 8:51:01AM

INMATE NISSEN, MICHAEL
 AGENCY #: 02508151
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 HOUSING: 800/B/208/U

| Transaction Date/Time | Transaction Amount | Deposit/Withdrawl Amount | Collected Cost Recovery | Billed Cost Recovery | Check # | Current Balance | Receipt # | DLN |
|-------------------------------------|--------------------|--------------------------|-------------------------|----------------------|-----------------|-----------------|-----------|-----|
| 12/22/19 08:21 | -7.36 | -7.36 | | | | \$ 11.10 | 15592866 | |
| REGULAR COMMISSARY PURCHASE | | | | | | | | |
| 01/02/20 06:54 | \$100.00 | \$100.00 | | | 13913859192 | \$ 111.10 | 15764170 | |
| WESTERN UNION INTERFACE - AUTO ENTE | | | | | KIMBERLY NISSEN | | | |
| 01/09/20 09:14 | -\$27.77 | -\$27.77 | | | | \$ 83.33 | 15879223 | |
| REGULAR COMMISSARY PURCHASE | | | | | | | | |
| 01/09/20 15:24 | -\$2.73 | -\$2.73 | | | | \$ 80.60 | 15866953 | |
| REGULAR COMMISSARY PURCHASE | | | | | | | | |
| 01/14/20 08:34 | -\$26.45 | -\$26.45 | | | | \$ 54.15 | 15927197 | |
| REGULAR COMMISSARY PURCHASE | | | | | | | | |
| 01/21/20 09:04 | -\$19.24 | -\$19.24 | | | | \$ 34.91 | 15939312 | |
| REGULAR COMMISSARY PURCHASE | | | | | | | | |
| 01/22/20 06:58 | \$100.00 | \$100.00 | | | 45074267892 | \$ 134.91 | 16008424 | |
| WESTERN UNION INTERFACE - AUTO ENTE | | | | | KIMBERLY NISSEN | | | |
| 01/27/20 08:31 | -\$40.26 | -\$40.26 | | | | \$ 94.65 | 16058544 | |
| REGULAR COMMISSARY PURCHASE | | | | | | | | |
| 02/05/20 08:50 | -\$30.16 | -\$30.16 | | | | \$ 64.49 | 16166224 | |
| REGULAR COMMISSARY PURCHASE | | | | | | | | |
| 02/11/20 06:44 | \$100.00 | \$100.00 | | | 24351380732 | \$ 164.49 | 16225868 | |
| WESTERN UNION INTERFACE - AUTO ENTE | | | | | KIMBERLY NISSEN | | | |
| 02/11/20 09:00 | -\$35.73 | -\$35.73 | | | | \$ 128.76 | 16230016 | |
| REGULAR COMMISSARY PURCHASE | | | | | | | | |
| 02/12/20 08:21 | -\$8.25 | -\$8.25 | | | | \$ 120.51 | 16243800 | |
| CR - POSTAGE | | | | | | | | |
| 02/18/20 12:05 | -\$28.69 | -\$28.69 | | | | \$ 91.82 | 16302981 | |
| REGULAR COMMISSARY PURCHASE | | | | | | | | |
| CURRENT ACCOUNT BALANCES | | | | | | | | |
| ACCOUNT | | | | | | BALANCE | | |
| INMATE FUND | | | | | | \$ 91.82 | | |
| INMATE ESCROW FUND | | | | | | \$ 0.00 | | |
| Total Balance: | | | | | | \$ 91.82 | | |

INMATE NAME: NISSEN, MICHAEL
 AGENCY #: 02508151
 PERM: 5552151

INFORMATION AND INSTRUCTIONS**FILING COMPLAINT UNDER 42 U.S.C. § 1983**

This form is to assist you in the preparation of a complaint seeking relief under the Civil Rights Act. In order for your complaint to be considered by the District Court, it must be typewritten or legibly handwritten. All questions must be answered clearly and concisely in the appropriate space on the form. If there is more than one defendant, you should clearly indicate which of the acts alleged is attributable to each defendant.

A. The Complaint

- 1) An original complaint must be provided for the court. You should keep a copy of the complaint for your records.
- 2) Your complaint must be signed and include a declaration under penalty of perjury. You are cautioned that any deliberate false statement of a material fact may serve as a basis for prosecution and conviction for perjury. You should therefore exercise care to assure that all answers are true, correct, and complete.
- 3) Under the Civil Rights Act, 42 U.S.C. § 1983, the court can grant relief only for wrongs which amount to the denial of federal constitutional rights by a person acting under color of state law. Your complaint can be brought in this court only if one or more of the named defendants are located within this judicial district.
- 4) You must furnish original copies of all papers, correspondence or other documents submitted to the court for filing and consideration. In addition, you must furnish the opposing party or his attorney with a copy of all such documents submitted to the court. Each original document (except the original complaint) must include a certificate stating the date a copy of the document was mailed to the opposing party or his attorney and the address to which it was mailed.

A certificate of service should be in the following form:

"I hereby certify that a copy of the foregoing pleading/document was mailed to:

JUDGE JAMES O' BROWNING at UNITED STATES DISTRICT COURT
 (Opposing party or counsel) 333 LOMAS BLVD, NM ALBUQUERQUE, NM
 (Address) 87102

on 02/19, 2020,
 (Date)

Michael J. Kim
 (Signature)



OFFICIAL SEAL
 Birdie Jones

NOTARY PUBLIC-State of New Mexico

My Commission Expires 10-22-2022

B. Jones

B. The Filing Fee and 28 U.S.C. § 1915

- 1) The complaint must be accompanied by the full \$350.00 filing fee. If you want to commence an action without prepayment of fees or security therefore, you must file a motion for leave to proceed pursuant to 28 U.S.C. § 1915. Under § 1915, you also must submit an affidavit and a certified copy of your trust fund account statement (or institutional equivalent) for the six-month period immediately preceding the filing of the complaint. The certified copy of the trust fund account statement (or institutional equivalent) must be obtained from the appropriate official of each penal institution at which you are or were confined during the six-month period. The court will not consider the merits of the claims asserted in any complaint filed without either the \$350.00 filing fee or a properly completed motion, affidavit and certified copy of your trust fund account statement (or institutional equivalent) as required by § 1915.
- 2) The motion and affidavit for leave to proceed pursuant to 28 U.S.C. § 1915 must be typewritten or legibly handwritten. All questions must be answered clearly and concisely in the appropriate space on the form. You must sign the motion and affidavit. You should exercise care to assure that all answers are true, correct and complete.
- 3) If you are proceeding pursuant to 28 U.S.C. § 1915 and the motion, affidavit and certified copy of your trust fund account statement (or institutional equivalent) are in proper form, you will be ordered to pay within thirty days an initial partial filing fee in an amount to be determined by the court pursuant to § 1915(b)(1). The court will not review the merits of your complaint until the initial partial filing fee is paid. If you fail to pay the initial partial filing fee within thirty days or fail to show that you have no assets and no means by which to pay the initial partial filing fee, the complaint will be dismissed without prejudice. If the initial partial filing fee is paid within thirty days, the court will review the complaint pursuant to § 1915(e)(2)(B) to determine if it is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief.
- 4) You are reminded that, even if you are allowed to proceed pursuant to 28 U.S.C. § 1915, you must pay the full filing fee as required by law, i.e., \$350.00. It is your responsibility to ensure that monthly payments are sent to the court as required by § 1915(b)(2) until the filing fee is paid in full. It is your responsibility to have the institution where you are confined forward the payments from your trust fund account to the Clerk of the Court each time the amount in your account exceeds \$10.00. The complaint may be dismissed at any point if you fail to make the required monthly payments.
- 5) When your complaint is completed, it should be mailed with the necessary copies and filing fee, or motion to proceed pursuant to 28 U.S.C. § 1915 and financial certificate, to the Clerk of the United States District Court whose address is:

U.S. District Court
333 Lomas Blvd. NW, Ste. 270
Albuquerque, NM 87102

- 6) United States District Judges, United States Magistrate Judges, law clerks, the Clerk of Court, and deputy clerks are officers of the court **and are prohibited from giving legal advice**. Questions of this nature should be directed to an attorney.

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

District of New Mexico

10th Division

Case No. _____

(to be filled in by the Clerk's Office)

MICHAEL J. NISSEN

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

JUDGE JAMES O' BROWNING

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name MICHAEL J. NISSEN

All other names by which
you have been known: N/A

ID Number 02508151

Current Institution CIBOLA COUNTY CORRECTIONS CENTER

Address P.O. Box 3540

MILAN N.M 87021
City State Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name JUDGE JAMES O' BROWNING

Job or Title (*if known*) JUDGE

Shield Number N/A

Employer UNITED STATES GOVERNMENT

Address 333 LOMAS BLVD, NW

ALBUQUERQUE N.M 87102
City State Zip Code

☐ Individual capacity ☒ Official capacity

Defendant No. 2

Name N/A

Job or Title (*if known*) _____

Shield Number _____

Employer _____

Address _____

City State Zip Code

☐ Individual capacity ☐ Official capacity

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

Defendant No. 3

Name

N/A

Job or Title (if known)

Shield Number

Employer

Address

City

State

Zip Code

☐

Individual capacity

☐

Official capacity

Defendant No. 4

Name

N/A

Job or Title (if known)

Shield Number

Employer

Address

City

State

Zip Code

☐

Individual capacity

☐

Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☒Federal officials (a *Bivens* claim)☐

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

FIRST, FOURTH, FIFTH, EIGHTH, NINETH, TEENTH, ELEVENTH,
FOURTEENTH, TWENTY-THIRD

CONSTITUTIONAL AMENDMENTS ALL VIOLATED.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

FIRST, FOURTH, FIFTH, EIGHTH, NINETH, TEENTH, ELEVENTH, FOURTEENTH, TWENTY-THIRD CONSTITUTIONAL AMENDMENTS OF THE UNITED STATES ALL PLAINTIFFS RIGHTS VIOLATED BY ARBITRARY ABUSE OF POWER.

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed. MOTIONS ALL FILED BEFORE AND AFTER JURY TRIAL. JUDGE JAMES O' BROWNING ACTING UNDER COLOR OF LAW, KNOWING THE CONSTITUTION OF THE UNITED STATES VIOLATED PLAINTIFFS FOURTEENTH CONSTITUTIONAL AMENDMENT OF CITIZENS RIGHTS, PRIVILEGES, OR IMMUNITIES, DUE PROCESS, EQUAL PROTECTION OF THE LAWS SECURED BY THE CONSTITUTION OF THE UNITED STATES.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☒ Other (explain) CONVICTED AND PRE SENTENCING REPORT

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

N/A

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

UNITED STATES DISTRICT COURT, 333 LOMAS BLVD, NW ALBUQUERQUE, NM 87102.
IN JUDGE JAMES O' BROWNING'S VENUE.

C. What date and approximate time did the events giving rise to your claim(s) occur?

AUGUST 6, 7, 2019

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

PLAIN ERROR BY JUDGE JAMES O' BROWNING FOR
ALLOWING THIS BLATANT AND SHAMEFUL EGREGIOUS
ACTION OF PROFESSIONALISM TO BE MALICIOUSLY REVEALED
IN HIS VENUE IS A GROTESQUE MISCARriage OF
CONSTITUTIONAL JUSTICE .

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

N/A

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims. NO MONETARY RELIEF SOUGHT AFTER IN THIS PARTICULAR CASE, PLAINTIFF SEEKS FULL ACQUITTAL OF BOTH COUNTS OF THESE CONSTITUTIONAL VIOLATIONS. JUDGE JAMES O' BROWNING DOES NOT RECEIVE ABSOLUTE IMMUNITY WHEN SUED FOR VIOLATIONS OF CONSTITUTIONAL CIVIL RIGHTS ARISING FROM THEIRS OR HIS ADMINISTRATIVE FUNCTIONS WHEN THE JUDICIAL VENUE OF JUDGE JAMES O' BROWNING VIOLATED PLAINTIFF'S CONSTITUTIONAL RIGHTS OF THE UNITED STATES GUARANTEED TO ALL CITIZENS,

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☒ No

☐ Do not know

If yes, which claim(s)?

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☐ Yes

☒ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☒ No

- E. If you did file a grievance:

1. Where did you file the grievance?

N/A

2. What did you claim in your grievance?

N/A

3. What was the result, if any?

N/A

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

N/A

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

PLAINTIFF DID NOT FILE A GRIEVANCE IN THE INSTITUTION HE IS CURRENTLY INCARCERATED FOR THIS GRIEVANCE DOES NOT CONCERN CIBOLA COUNTY CORRECTIONS CENTER.

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

N/A

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

MOTIONS, 28 U.S.C.A § 2255

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

N/A

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) N/A

Defendant(s) N/A

2. Court *(if federal court, name the district; if state court, name the county and State)*

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition.

N/A

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

N/A

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

☐ Yes☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) N/A

Defendant(s) N/A

2. Court *(if federal court, name the district; if state court, name the county and State)*

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition

N/A

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

N/A

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 02/19/2020

Signature of Plaintiff Michael J. Nissen

Printed Name of Plaintiff MICHAEL J. NISSEN

Prison Identification # 02508151

Prison Address P.O. Box 3540

MILAN N.M 87021

City State Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney N/A

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Address _____

City State Zip Code

Telephone Number _____

E-mail Address _____



OFFICIAL SEAL

Birdie Jones

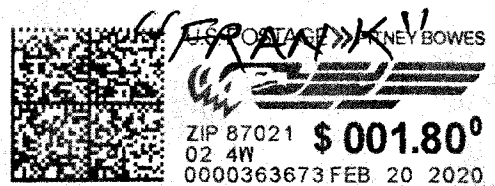
NOTARY PUBLIC-State of New Mexico

My Commission Expires 10-22-2023

MICHAEL NISSEN
02508151
P.O. BOX 3540
CIBOLA COUNTY CORRECTIONS CENTER
MILAN, NM 87021

*Legal
mail for
the judge.*

ATTN
UNIT
10th
333
ALBU



JUDGE JAMES O' BROWNING
ED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO
LOMAS BLVD, NW
QUERQUE, NM 87102

